

**Commissioner Deborah A. Gist's Weekly Field Memo**  
**Friday, December 18<sup>th</sup>, 2009**

**Note from [Commissioner Gist](#)**

**From the Department of Elementary and Secondary Education (RIDE):**

RIDE seeks to assess district interest in participating in *Building a Strong Foundation* with the [Dana Center](#) – ***Response Requested***

Parents not entitled to reimbursement for [private school](#) placement unrelated to any disability under IDEA

**From other state agencies:**

Auditor General issues guidance on reporting State Fiscal [Stabilization Funds](#)

**Other:**

The New English Secondary School Consortium (NESSC) to hold conference on [best practices](#)

Bank of America announces its 2010 [Student Leader Program](#)

**Attachments to this field memo:**

Auditor General re SFSF 12-11-09

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**Note from Commissioner Gist**

Dear colleagues,

As we near the end of the first semester of the school year, I want to wish each of you a very safe, healthy, and happy holiday season with your family and friends. I have served as commissioner for nearly six months now, and it has been a wonderful experience. I am very glad that I have gotten to know each of you, and I have greatly enjoyed visiting your districts, seeing the great teaching and learning going on in your schools, and hearing your concerns.

I know that this has been a difficult week, in light of Governor Carcieri's proposal to reduce education aid by 3 percent. The news media have asked me to comment on this matter, and I have consistently said that, though I understand the severe budget crisis we face in Rhode Island, I am concerned about these cuts in essential aid to education.

At the mid-point of the school year, it will be very difficult for us to absorb these cuts without affecting students. If the General Assembly approves the Governor's budget proposal, we will have to put the needs of students first and find the best way to make these cuts. My staff members and I will be available to you at any time to discuss this important matter and to work together to find solutions that will be in the best interest of students.

I will send my next memo to the field on Friday, January 8<sup>th</sup>. Again, I wish you all a safe and happy holiday season and new year!

**From RIDE:**

**RIDE seeks to assess district interest in participating in *Building a Strong Foundation* with the Dana Center – Response Requested**

Please see the following memo from the RIDE Office of Instruction, Assessment, and Curriculum:

As we continue to prepare our application for Race to the Top, the Office of Instruction, Assessment & Accountability must get a sense of district interest in joining the *Building a Strong Foundation* work with the Dana Center. A one-page overview of the current work is available at:  
[http://www.ride.ri.gov/instruction/DOCS/MathSci/Overview-04\\_07\\_2009.pdf](http://www.ride.ri.gov/instruction/DOCS/MathSci/Overview-04_07_2009.pdf).

Please e-mail Heather Johnson, at [heather.johnson@ride.ri.gov](mailto:heather.johnson@ride.ri.gov), to provide an indication of interest in participating in this work in future years. For current open-session districts, this would indicate an interest in continuing the work in a more intensive way.

This initial indication of interest is nonbinding on the parts of both the districts and RIDE. Also, the scope of the work will depend on Race to the Top funding and the capacity of the Dana Center.

**Parents not entitled to reimbursement for private school placement unrelated to any disability under IDEA**

The RIDE Office of Student, Community, and Academic Supports draws this court ruling to your attention:

A U.S. district court in Oregon has ruled that the parents of student who was unilaterally placed in private school were

not entitled to tuition reimbursement because the student was not placed in the school for any disability recognized by the Individuals with Disabilities Education Act (IDEA). A state hearing officer ruled that Forest Grove School District (FGSD) was required to pay the cost of sending T.A. to a private school under IDEA. The district court reversed the hearing officer's on the grounds: (1) the right to reimbursement is limited under IDEA; and (2) "T.A. was ineligible to receive reimbursement under general principles of equity because this was not an 'extreme' case where the need for special education was obvious to school authorities and the parents were uninformed or unable to request services." The U.S. Court of Appeals for the Ninth Circuit (AK, AZ, CA, HI, ID, MT, NV, OR, WA, GU, MP) reversed the district court's decision, holding IDEA does not bar parents who unilaterally place their children in private school where the children have never previously received special education services in public school from seeking reimbursement for the cost of private school. The U.S. Supreme Court affirmed the Ninth Circuit's decision. The Supreme Court ruled IDEA authorizes reimbursement for private school placement of a special education student when a public school fails to provide that student with a free appropriate public education (FAPE), even if the student has not previously received special-education services from the public school. The case was then remanded to the district court for proceedings on the merits of the parents' reimbursement claim.

The district ruled that the "equities do not support reimbursement" and reversed the hearing officer's decision. It pointed out that the Ninth Circuit had acknowledged that the hearing officer's determination that T.A. had also been placed in private school for reasons, *i.e.* behavioral problems and drug abuse, unrelated to his disabilities was relevant to

the determination of whether reimbursement was proper. It took note that FGSD was not informed of the placement by the parents until well after T.A. had been enrolled. In addition, the district court pointed out the fact the parents chose the private school without conducting any research or even visiting the school weighed against reimbursement “particularly in light of the evidence that T.A.'s parents enrolled him at [the private school] for reasons other than his ADHD and depression.” However, it found that the “decisive factor in this case is that T.A.'s parents appear to have enrolled T.A. in MBA not because of any disability recognized by the IDEA but because of his drug abuse and behavioral problems,” as demonstrated by the father’s notation on the private school application that T.A. was being enrolled because of “inappropriate behavior, depression, opposition, drug use, “and running away.” As a result, the district court concluded: “The equities do not favor requiring the District to reimburse T.A.'s parents for a decision to send T.A. to a school because of his drug abuse and behavioral problems that are unrelated to his difficulties focusing in school.” Lastly, it noted the private school can be an expensive proposition for school districts in order to comply with what it described as an “unfunded federal program.” It stated that it included that potential cost of reimbursements for school districts, merely to demonstrate that decisions, such as the one in this case, can have potentially devastating real world implications.”

[Forest Grove Sch. Dist. v. T.A.](#), No. 04-331 (D. Ore. Dec. 8, 2009)

We have distributed this information to the administrators of special education.

## **From other state agencies:**

### **Auditor General issues guidance on reporting State Fiscal Stabilization Funds**

Please see the attached document, which the Auditor General sent to all finance officers, containing guidance on reporting State Fiscal Stabilization Funds.

## **Other:**

### **The New English Secondary School Consortium (NESSC) to hold conference on best practices**

Please see this notice from NESSC, and please share this information with your high-school principals:

#### **Best Practices in Action**

A Regional High School Conference

**What:** A regional conference for New England's high school educators to share success stories, exchange solutions, and build momentum for local and large-scale secondary transformation focused on preparing all students for success in the colleges, careers, and communities of the 21<sup>st</sup> century.

**When:** Thursday + Friday, April 8–9, 2010

**Where:** Radisson Hotel, Nashua, New Hampshire

**Who:** High school teams from Connecticut, Maine, New Hampshire, Rhode Island, and Vermont engaged in secondary-school transformation.

For more information, see:

<http://www.newenglandssc.org/2010conference.html>

## **Bank of America announces its 2010 Student Leader Program**

Please see this announcement from the Bank of America:

Our application period is opening up again soon for our 2010 Student Leader Program. The application period will open on January 1<sup>st</sup> and close on February 17<sup>th</sup>. As in previous years, our outstanding Neighborhood Excellence Selection Committee selects 5 students to receive an 8-week paid internship with a nonprofit and an all-expense-paid trip to Washington, D.C., for a Student Leadership Summit.

For more information, see:

<http://Bankofamerica.com/neistudentleaders>